

An Ordinance No. 119

- 2024

DECLARING improvements to certain real property located at 101 West Fifth Street in the Central Business District of Cincinnati, to be redeveloped by 101 West Fifth LLC, an affiliate of Cincinnati Center City Development Corporation (commonly known as 3CDC), to be a public purpose and exempt from real property taxation for a period of thirty years pursuant to Ohio Revised Code Section 5709.40(B); and **AMENDING** Ordinance No. 412-2002, passed on December 18, 2002, as amended, to remove such real property from the operation of that ordinance.

WHEREAS, Ohio Revised Code (“R.C.”) Sections 5709.40, et seq., provide that Council may (i) declare any “Improvement” (as defined in R.C. Section 5709.40(A)(4)) to one or more parcels of real property located in the City of Cincinnati to be a public purpose, thereby exempting such Improvement from real property taxation for up to thirty years; and

WHEREAS, the City is fee owner of certain real property located at 101 West Fifth Street and the building located thereon, which was most recently occupied by Saks Fifth Avenue, and which property is more particularly described in Attachment A hereto (the “Property”); and

WHEREAS, 101 West Fifth LLC (“Developer”), an affiliate of Cincinnati Center City Development Corporation (“3CDC”), desires to purchase the Property from the City and redevelop the Property into approximately 75,000 square feet of new office and commercial space (the “Project”); and

WHEREAS, to facilitate the Project, (i) the City intends to sell and convey its interest in the Property to Developer, and (ii) Developer will make certain public infrastructure improvements that will directly benefit the Property and the Project; and

WHEREAS, Council desires to declare the Improvement to the Property to be a public purpose and exempt 100 percent of such Improvement from real property taxation for a period of thirty years, all pursuant to R.C. Section 5709.40(B); and

WHEREAS, the City’s Department of Community and Economic Development estimates that the real property tax exemption for the Improvement to the Property will provide an annual net benefit to Developer in the amount of approximately \$161,249; and

WHEREAS, the Board of Education of the Cincinnati City School District (the “School Board”), pursuant to an agreement with the City entered into on April 28, 2020 (the “School Board Agreement”), has approved real property tax exemptions of up to 100 percent for periods not to exceed thirty years, waived advance notice and right to review such projects, and waived sharing or allocation of municipal income taxes in connection with such projects; and

WHEREAS, the City has determined that it is necessary and appropriate, and in the best interest of the City, to (i) exempt the Improvement to the Property from real property taxation under R.C. Sections 5709.40, et seq., and (ii) not require Developer to make statutory service payments in lieu of real property taxes under R.C. Section 5709.42 to ensure the economic feasibility of the redevelopment of the Property (provided that Developer agrees to make semi-annual payments to the School Board in satisfaction of the payment obligations under the School Board Agreement); and

WHEREAS, the Property is located within the boundaries of the District 2-Downtown South/Riverfront District Incentive District, which was created by Ordinance No. 412-2002, passed by Council on December 18, 2002, as subsequently amended (the "TIF District Ordinance"); and

WHEREAS, in order to effectuate the transactions described in these recitals and in accordance with R.C. 5709.916(E), the City desires to amend the TIF District Ordinance to exclude the Property and to provide for an exemption for the Property pursuant to R.C. Section 5709.40(B); now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That, pursuant to and in accordance with the provisions of Ohio Revised Code ("R.C.") Section 5709.40(B), Council hereby declares that 100 percent of the increase in the assessed value of the Improvement (as defined in R.C. Section 5709.40(A)) on the real property located at 101 West Fifth Street in Cincinnati, as more particularly described on Attachment A hereto (the "Property"), is a public purpose and exempt from real property taxation commencing with the year the Improvement would first be placed on the Hamilton County Treasurer's tax list and duplicate but for the exemption granted herein, and ending after the Improvement has been exempted from real property taxation for thirty years, all in accordance with the requirements of R.C. Sections 5709.40 through 5709.43.

Section 2. That Council hereby finds and determines that the public infrastructure improvements to be made by 101 West Fifth LLC ("Developer") to support Developer's redevelopment of the Property, including, without limitation, demolition of a skywalk connecting the Property to the adjacent Carew Tower across Race Street, façade repair around the removed skywalk, and streetscape improvements, which are necessary as a result of and

for the further development of the Property for creating jobs, increasing property values, and preserving the health, safety, and welfare of the citizens of Cincinnati; and Council hereby designates such public infrastructure improvements as “public infrastructure improvements” made (or to be made) that directly benefit the Property pursuant to R.C. Section 5709.40(B).

Section 3. That Council hereby elects to not require Developer or future owners of the Property to make statutory service payments in lieu of real property taxes under R.C. Section 5709.42 in order to ensure the economic feasibility of the redevelopment of the Property; provided, however, that Developer and all future owners of the Property shall make payments to the Board of Education of the Cincinnati City School District (the “School Board”) as required by the Agreement between the School Board and the City dated April 28, 2020, as may be amended.

Section 4. That, to facilitate the redevelopment project, Council hereby authorizes the City Manager, upon request of and in consultation with Developer, to prepare (or cooperate in the preparation of) and file an application for the real property tax exemption granted in Section 1 of this ordinance.

Section 5. That Ordinance No. 412-2002, passed on December 18, 2002, as subsequently amended (the “TIF District Ordinance”), is hereby amended to remove the Property from the property tax exemption area created thereby.

Section 6. That the TIF District Ordinance, except as amended herein, shall remain in full force and effect.

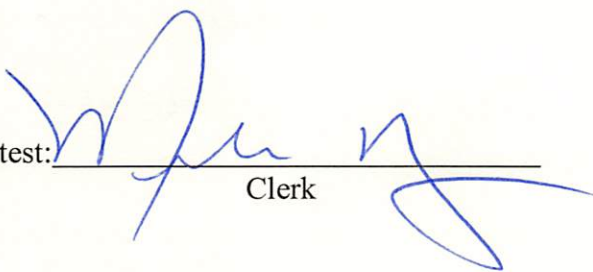
Section 7. That the proper City officials are hereby authorized to take all necessary and appropriate actions to fulfill the terms of this ordinance, including, without limitation, executing any and all ancillary agreements and other documents.

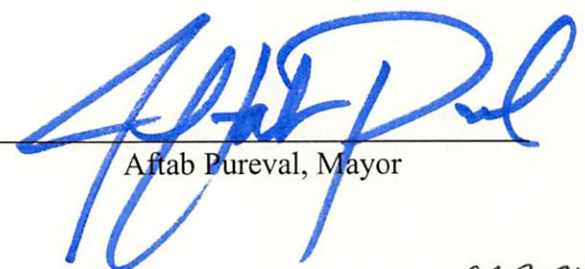
Section 8. That, pursuant to R.C. Section 5709.40(I), the Clerk of Council is hereby directed to deliver a copy of this ordinance to the Director of the State of Ohio Department of Development (“ODOD”), 77 South High Street, 29th Floor, Columbus, Ohio 43215, within fifteen days after its passage, and that, on or before March 31 of each year that the exemption set forth in Section 1 hereof remains in effect, the City Manager is authorized to prepare and submit to the Director of ODOD the status report required under R.C. Section 5709.40(I).


Section 9. That it is hereby found and determined that all formal actions of Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of Council and of any of its committees that resulted in such formal action were taken in meetings open to the public, in compliance with all legal requirements, including R.C. Section 121.22.

Section 10. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to enable the construction of the improvements to the Property described to commence at the earliest possible time, for the economic welfare of the citizens of Cincinnati.

Passed: March 20, 2024

Attest: 
Clerk


Aftab Pureval, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 99-2024
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 4/2/2024

CLERK OF COUNCIL